

Last revised 8/1/15

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In Re:  
CAROL L. BERRY,

Case No.: 15-28681  
Judge: SHERWOOD  
Chapter: 13

Debtor(s)

**Chapter 13 Plan and Motions**

- ☐ Original ☒ Modified/Notice Required ☒ Discharge Sought  
☐ Motions Included ☐ Modified/No Notice Required ☐ No Discharge Sought

Date: November 4, 2016

THE DEBTOR HAS FILED FOR RELIEF UNDER  
CHAPTER 13 OF THE BANKRUPTCY CODE

**YOUR RIGHTS WILL BE AFFECTED**

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice. **This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice.**

**YOU SHOULD FILE A PROOF OF CLAIM BY THE DEADLINE STATED  
IN THE NOTICE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN  
THAT MAY BE CONFIRMED, EVEN IF THE PLAN REFERS TO YOUR CLAIM**

**Part 1: Payment and Length of Plan**

a. The debtor shall pay \$ 149.00 per month to the Chapter 13 Trustee, starting on December 1, 2016 for approximately 47 months.

b. The debtor shall make plan payments to the Trustee from the following sources:

- ☒ Future earnings  
☒ Other sources of funding (describe source, amount and date when funds are available):

\$ 1,400.00 Paid in through November 30, 2016

c. Use of real property to satisfy plan obligations:

- ☐ Sale of real property

Description:

Proposed date for completion: \_\_\_\_\_

- ☐ Refinance of real property:

Description:

Proposed date for completion: \_\_\_\_\_

- ☐ Loan modification with respect to mortgage encumbering property:

Description:

Proposed date for completion: \_\_\_\_\_

- d. ☐ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.

- e. ☐ Other information that may be important relating to the payment and length of plan:

**Part 2: Adequate Protection**

a. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to \_\_\_\_\_ (creditor).

b. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid directly by the debtor(s) outside the Plan, pre-confirmation to: \_\_\_\_\_ (creditor).

**Part 3: Priority Claims (Including Administrative Expenses)**

All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
MINION & SHERMAN	ATTORNEYS FEES	\$ 2,500.00 (balance of original retainer) + any supplemental fees awarded by court

**Part 4: Secured Claims**

**a. Curing Default and Maintaining Payments**

The Debtor shall pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)

**b. Modification**

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

**NOTE: A modification under this Section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.**

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to be Paid

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

**c. Surrender**

Upon confirmation, the stay is terminated as to surrendered collateral. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt
Nationstar Mortgage (1st Mortgage)	35 Linden Ave. Montclair, New Jersey	\$351,271.00	Surrendered in Full Satisfaction of Debt

**d. Secured Claims Unaffected by the Plan**

WELLS FARGO FINANCIAL (PMSI on 2012 Nissan Rogue)

The following secured claims are unaffected by the Plan:

**e. Secured Claims to be Paid in Full Through the Plan:**

Creditor	Collateral	Total Amount to be Paid Through the Plan

**Part 5: Unsecured Claims**

**a. Not separately classified** allowed non-priority unsecured claims shall be paid:

- ☐ Not less than \$ \_\_\_\_\_ to be distributed *pro rata*  
☒ Not less than 100 percent  
☐ *Pro Rata* distribution from any remaining funds

**b. Separately classified unsecured** claims shall be treated as follows:

Creditor	Basis For Separate Classification	Treatment	Amount to be Paid

**Part 6: Executory Contracts and Unexpired Leases**

All executory contracts and unexpired leases are rejected, except the following, which are assumed:

Creditor	Nature of Contract or Lease	Treatment by Debtor

**Part 7: Motions**

**NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service* must be filed with the Clerk of Court when the plan and transmittal notice are served.**

**a. Motion to Avoid Liens Under 11. U.S.C. Section 522(f).**

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided

**b. Motion to Avoid Liens and Reclassify Claim From Secured to Completely Unsecured.**

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Amount of Lien to be Reclassified

**c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured.**

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured

**Part 8: Other Plan Provisions**

**a. Vesting of Property of the Estate**

- ☒ Upon confirmation  
☐ Upon discharge

**b. Payment Notices**

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

**c. Order of Distribution**

The Trustee shall pay allowed claims in the following order:

- 1) Trustee commissions
- 2) Attorneys Fees
- 3) Priority Claims
- 4) General Unsecured Claims

**d. Post-Petition Claims**

The Trustee ☒ is, ☐ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

**Part 9: Modification**

If this Plan modifies a Plan previously filed in this case, complete the information below.

Date of Plan being Modified: 7/26/2016.

Explain below **why** the plan is being modified:

The plan is being modified because Debtor was rejected for a loan modification.

Explain below **how** the plan is being modified:

The plan is being modified to surrender the real property located at 35 Linden Ave., Montclair, New Jersey

Are Schedules I and J being filed simultaneously with this Modified Plan?

☐ Yes ☒ No

**Part 10: Sign Here**

The Debtor(s) and the attorney for the Debtor (if any) must sign this Plan.

Date: 11/21/2016

/s/ Scott D. Sherman  
Attorney for the Debtor

I certify under penalty of perjury that the above is true.

Date: 11/21/2016

/s/ Carol Berry  
Debtor

Date: \_\_\_\_\_

\_\_\_\_\_  
Joint Debtor

**Certificate of Notice Page 8 of 8**  
 United States Bankruptcy Court  
 District of New Jersey

In re:  
 Carol L Berry  
 Debtor

Case No. 15-28681-JKS  
 Chapter 13

**CERTIFICATE OF NOTICE**

District/off: 0312-2

User: admin  
 Form ID: pdf901

Page 1 of 1  
 Total Noticed: 14

Date Rcvd: Nov 22, 2016

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 24, 2016.

db	+Carol L Berry, 35 Linden Avenue, Montclair, NJ 07042-4307
aty	+Kevin L. Parsons, GILL & CHAMAS, LLC, PO BOX 760, WOODBRIDGE, NJ 07095-0760
aty	+Stern, Lavinthal & Frankenberg, LLC, 293 Eisenhower Parkway, Suite 300, Livingston, NJ 07039-1789
515773993	+Capital One, Attn: Bankruptcy, Po Box 30285, Salt Lake City, UT 84130-0285
515861972	Capital One Bank (USA), N.A., PO Box 71083, Charlotte, NC 28272-1083
515773994	+Comenity Capital Bank/HSN, Attn: Bankruptcy, Po Box 183043, Columbus, OH 43218-3043
515957947	+NATIONSTAR MORTGAGE LLC, PO BOX 619096, DALLAS TX 75261-9096 (address filed with court: Nationstar Mortgage LLC, P.O. Box 619096, Dallas, TX 75261-9741)
515773995	+Nationstar Mortgage, 8950 Cypress Waters Blvd., Coppell, TX 75019-4620
515773996	+STERN, LAVINTHAL, ET. ALS., 293 Eisenhower Parkway, Suite 300, Livingston, NJ 07039-1719
515842395	Wells Fargo Bank N.A., d/b/a Wells Fargo Dealer Se, PO Box 19657, Irvine, CA 92623-9657
515773997	+Wfs Financial/Wachovia Dealer Srvs, Po Box 3569, Rancho Cucamonga, CA 91729-3569

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

smg	E-mail/Text: usanj.njbankr@usdoj.gov Nov 22 2016 23:07:59 U.S. Attorney, 970 Broad St., Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534
smg	+E-mail/Text: ustpreregion03.ne.ecf@usdoj.gov Nov 22 2016 23:07:57 United States Trustee, Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100, Newark, NJ 07102-5235
515838878	E-mail/Text: bnc-quantum@quantum3group.com Nov 22 2016 23:07:49 Quantum3 Group LLC as agent for, Comenity Capital Bank, PO Box 788, Kirkland, WA 98083-0788

TOTAL: 3

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*

lm\* +NATIONSTAR MORTGAGE LLC, 8950 Cypress Waters Blvd., Coppell, TX 75019-4620

TOTALS: 0, \* 1, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

Addresses marked '++' were redirected to the recipient's preferred mailing address pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Nov 24, 2016

Signature: /s/Joseph Speetjens

**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 21, 2016 at the address(es) listed below:

Denise E. Carlon	on behalf of Creditor	Nationstar Mortgage LLC	dcarlon@kmlawgroup.com,
bkgroup@kmlawgroup.com			
Jeanette F. Frankenberg	on behalf of Creditor	Nationstar Mortgage LLC	cmecf@sternlav.com
Marie-Ann Greenberg			magecf@magtrustee.com
Scott D. Sherman	on behalf of Debtor Carol L Berry	ssherman@minionsherman.com	

TOTAL: 4